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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/033,909	03/03/1998	YUZO KIKUCHI	KIKUCHI=2	2662

1444 7590 01/30/2002

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EXAMINER

WACHTEL, ALEXIS A

ART UNIT	PAPER NUMBER
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1771

24

DATE MAILED: 01/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/033,909

Applicant(s)

KIKUCHI, YUZO

Examiner

Alexis Wachtel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

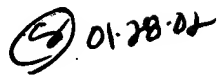
Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on ¹¹⁻¹⁴⁻⁰¹ ~~has~~ has been entered. 

Objections

2. Claims 41 and 50 are objected to because of the following informalities: the term "portion" is misspelled as "potion." Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 35 recites the limitation "the fixing unit" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 35-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,286,77 to Oellerking in view of WO 97/49541 to Christensen et al.

Oellerking discloses a fabric comprising a welding portion and a fixing portion. The welding portion comprises a weldable plastic material. The fabric may also comprise a fixing portion, (i.e., a non-coated portion). Since a fabric necessarily comprises fibers and since the weldable material comprises warp fibers and since the weldable material comprises a thermoplastic coating on a fabric, Oellerking inherently teaches that the welding portion comprises warp fibers which are coated with a thermoplastic material. Oellerking differs from the claimed invention because Oellerking does not specifically teach applying the welding portion so that it is in the middle of the fixing portion, so that there are two fixing portions connected edge to edge together, so that the two welding portions are attached to the middle of said fixing portion, so that two welding portions are branched from one edge of said fixing portions. However, since Oellerking does teach that weldable coating is applied to facilitate bonding the fabric to a substrate, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the weldable coating to the fabric in the pattern which would have most facilitated the bonding of the fabric to a substrate (Fig. 1, Col 2, lines 38-55, Col 3, lines 3-15). Oellerking also differs from the claimed invention because Oellerking does not teach incorporating auxiliary fixing means into the fixing portion (i.e., the non-coated portion) of the welding fabric. Christensen teaches that providing auxiliary fixing means such as stitching in the portion of a welding fabric outside of the welded enhances the overall strength of the bond. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to have included auxiliary fixing means in the fixing portion of the welding fabric of Oellerking such as stitching the welding fabric to the substrate at a location near by outside the welded regions. One of ordinary skill in the art would have been motivated to include auxiliary fixing means by the expectation that such auxiliary fixing means would enhance the overall strength of the patch.

With regard to the new limitation that the material comprising the welding fabric and a first substrate such as a tarpaulin and since it is well known conventionally to secure tarpaulins to other substrates such as columns, stakes, building etc., it would have been obvious to one of ordinary skill in the art at the time the invention was made to have secured the first material of Oellerking (which would comprise the welding fabric and the tarp) to a second substrate such as building, column, stake, fence, etc. Also, depending upon where the defect in the tarpaulin of Oellerking was located, it would have been obvious to have secured the welding fabric and tarp by means of auxiliary fixing means which were located in the non-coated portion of the welding fabric.

With regards to the limitations that the fixing portion comprises holes bored in the fixing portion and that the fixing portion comprises straps provided in the fixing portion, since Oellerking teaches that the welding fabric is suitable for use in repairing covers for containers, lorries, etc., it would have been obvious to to form holes or attach straps to the fixing portion in order to enable the welded, (i.e., the patch and cover), to be joined or held on the materials which the welded material is covering. For example, it is known to provide holes or provide straps of fabrics which are used as tarpaulins or covers so

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that the fabrics can be tied to whatever the fabric is covering. Thu, if a patch was made, which corresponds to the welding fabric claimed), it would have been obvious to have similarly incorporated means for tying or otherwise securing the welded material to whatever the welded material was going to cover, especially if the patch were going to be welded to the fabric in an area which already comprised such holes and/or straps, since the patch would otherwise cover the holes and/or straps.

Response to Arguments

7. Applicant's arguments filed 11/26/01 have been fully considered but they are not persuasive. Examiner notes that rejection under U.S.C. 112 1st Paragraph has been rendered moot by the cancellation of claims 14-17, 19-21, 23-26, 28,19, and 31-34. Applicant argues that Oellerking fails to teach or disclose a fixing portion on the welding fabric. Oellerking does in fact disclose a fixing portion (i.e., non-coated portion) as evidenced in this action as well as in prior Office Actions. Applicant also argues that Christensen teaches that the only **fixing portion** is stitching, and the **auxiliary fixing means** is outside the welded portion. Examiner wishes to point out that the stitching is not a **fixing portion**, but rather an **auxiliary fixing means**. Christensen does in fact teach that providing **auxiliary fixing means** such as stitching in the fixing portion (i.e., the non-coated portion) of a welding fabric outside the welded portion enhances the overall strength of the bond, as evidenced in this and prior Office Actions. Applicant argues that it would not have been obvious to have used the tarpaulin in conjunction with a second substrate, (i.e., the material to be covered with the tarpaulin). However, since Oellerking teaches applying the welding fabric to a tarpaulin, it would have been


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obvious to have used the tarpaulin in conjunction with a second substrate. (i.e., the material to be covered with the tarpaulin).

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 8:30am to 4:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Terrel Morris, can be reached at (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



CHERYL A. JOSKA
PRIMARY EXAMINER